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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

JEARHAMEL FANARO,

Plaintiff,

vs.

COUNTY OF CONTRA COSTA, CONTRA
COSTA COUNTY SHERIFF'S OFFICE,
DAVID O. LIVINGSTON, FRANCISCO
RAMIREZ, THOMAS LEON, FRANCISCO
VARGAS, ANTONIO ROSAS, OMAR
DELEON, DOES 3-50 INCLUSIVE

Defendant.

Case No.: 3:19-cv-03247-WHO

FIRST AMENDED COMPLAINT FOR
VIOLATION OF CIVIL AND
CONSTITUTIONAL RIGHTS
SUBSTITUTING DOES 1-2 FOR
DEFENDANTS ROSAS AND DELEON

DEMAND FOR JURY TRIAL ¹

Date: October 8, 2019

Time:

Department:

Judge: Hon. William H. Orrick, Presiding

Date Action Filed: June 10, 2019

Trial Date: None Assigned

JURISDICTION AND VENUE

¹ Other amendments pending written court order
COMPLAINT

1 1. This Court has the jurisdiction over the claims asserted herein pursuant to 28
2 U.S.C. §1331 (in that they arise under the United States Constitution); and 28 U.S.C. § 1343
3 (a)(3) (in that the actions is brought to address deprivations, under color of state authority, of
4 rights, privileges, and immunities secured by the United States Constitutions). This Court has
5 supplemental jurisdiction of the state law claims under 28 U.S.C. § 1367.
6

7 2. Venue is proper in the United State District Court for the Northern District of
8 California pursuant to 28 U.S.C. §1391(b) because the Defendants are located in the Northern
9 District of California and because many of the acts and/or omissions described herein occurred
10 in the Northern District of California.
11

12 **INTRAJURISDICTIONAL ASSIGNMENT**

13 3. Interjurisdictional district venue is proper in the San Francisco Division of the
14 Northern District of California pursuant to Civil L.R. 3-2(d) because the claims asserted herein
15 arise from acts and/or omissions which occurred in the County of Contra Costa, California.
16

17 4. Plaintiff JEARHAMEL FANARO filed a government claim with the COUNTY
18 OF CONTRA COSTA regarding the claims asserted herein, on May 15, 2018. The claim was
19 stamped received and rejected by operation of law on November 14, 2018. *See* CAL. GOV. CODE
20 § 912.4(c). Defendant COUNTY OF CONTRA COSTA mailed the rejection notice, which was
21 post-marked for December 21, 2018, five weeks later.
22

23 5. Except as provided in Civil L.R. 3-2(c), all civil actions which arise in the counties of
24 Alameda, Contra Costa, Marin, Napa, San Francisco, San Mateo, or Sonoma shall be assigned
25 to the San Francisco Division or the Oakland Division.
26

27 **PARTIES**

1 6. Plaintiff JEARHAMEL FANARO, a Filipino-American, is a resident of the State
2 of California, County of Contra Costa, and was a convicted inmate at Martinez Detention
3 Facility between approximately May 8, 2018 and August 17, 2018.

4
5 7. Defendant COUNTY OF CONTRA COSTA is a “public entity” within the
6 definition of CAL. GOV. CODE §811.2

7 8. Defendant DAVID O. LIVINGSTON is the Sheriff, at all material times herein
8 was the Sheriff, of defendants COUNTY OF CONTRA COSTA and CONTRA COSTA
9 COUNTY SHERIFF’S OFFICE, acting within the scope of that agency or employment and
10 under color of state law. Defendant DAVID O. LIVINGSTON is sued in his individual and
11 official capacity.

12
13 9. Defendant OMAR DELEON was, and at all material times herein, a law
14 enforcement officer employed by Defendants COUNTY OF CONTRA COSTA and CONTRA
15 COSTA COUNTY SHERIFF’S OFFICE, acting within the scope of that agency or employment
16 and under color of state law. Defendant OMAR DELEON is sued in his individual and official
17 capacity.

18
19 10. Defendant ANTONIO ROSAS was, and at all material times herein, a law
20 enforcement officer employed by Defendants COUNTY OF CONTRA COSTA and CONTRA
21 COSTA COUNTY SHERIFF’S OFFICE, acting within the scope of that agency or employment
22 and under color of state law. Defendant ANTONIO ROSAS is sued in his individual and
23 official capacity.

24
25 11. Defendant DOE 3 was, and at all material times herein, a law enforcement
26 officer employed by Defendants COUNTY OF CONTRA COSTA and CONTRA COSTA
27 COUNTY SHERIFF’S OFFICE, acting within the scope of that agency or employment and
28 under color of state law. Defendant DOE 3 is sued in his individual and official capacity.

1 12. Defendant DOE 4 was, and at all material times herein, a law enforcement
2 officer employed by Defendants COUNTY OF CONTRA COSTA and CONTRA COSTA
3 COUNTY SHERIFF'S OFFICE, acting within the scope of that agency or employment and
4 under color of state law. Defendant DOE 4 is sued in his individual and official capacity.
5

6 13. Defendant FRANCISCO RAMIREZ is an inmate at Contra Costa County Jail,
7 Martinez Detention Facility, and was a participating actor in the battery.

8 14. Defendant THOMAS LEON was an inmate at Contra Costa County Jail,
9 Martinez Detention Facility and was participating actor in the battery.
10

11 15. Defendant FRANCISCO VARGAS was an inmate at Contra Costa County Jail,
12 Martinez Detention Facility and was participating actor in the battery.

13 16. Defendant DOE 5 is an inmate at Contra Costa County Jail, Martinez Detention
14 Facility and was participating actor in the battery.

15 17. Defendant DOE 6 is an inmate at Contra Costa County Jail, Martinez Detention
16 Facility and was participating actor in the battery.
17

18 18. Plaintiff JEARHAMEL FANARO is ignorant of the true names or capacities of
19 the defendants sued here under the fictitious names DOES 7-50, inclusive. Plaintiff is informed
20 and believes that each of the DOE defendants was responsible in some manner for the
21 occurrences and injuries alleged in this complaint.
22

23 **GENERAL ALLEGATIONS**

24 19. At all times relevant herein, all wrongful acts described were performed under
25 color of state law and/or in concert with or on behalf of those acting under the color of state law.

26 20. All allegations made herein are based on information and belief.
27
28

1 21. Plaintiff JEARHAMEL FANARO was in the custody of Defendants COUNTY
2 OF CONTRA COSTA and CONTRA COSTA COUNTY SHERIFF'S OFFICE from May 8,
3 2018 to approximately August 17, 2018.

4 22. Defendant CONTRA COSTA COUNTY SHERIFF'S OFFICE operates and
5 staffs three detention facilities located in the geographical area encompassed in Defendant
6 COUNTY OF CONTRA COSTA. Martinez Detention Facility is the maximum-security facility
7 and primary point of intake for all arrestees booked in Contra Costa County. The Martinez
8 Detention Facility receives its oversight and funding from Defendant COUNTY OF CONTRA
9 COSTA.
10

11 23. Defendant CONTRA COSTA COUNTY SHERIFF'S OFFICE divides the
12 Martinez Detention Facility into Modules. The Classification Unit of Defendant CONTRA
13 COSTA COUNTY SHERIFF'S OFFICE determines the appropriate housing assignments using
14 interviews and historical records. The inmates are asked questions about race, residence, gang
15 affiliation and association during the classification interview. This is documented in each
16 inmate's file. Disciplinary records and reports are kept for defendant CONTRA COSTA
17 COUNTY SHERIFF'S OFFICE to review in the classification process.
18

19 24. During Plaintiff JEARHAMEL FANARO's incarceration at Contra Costa
20 County Jail, Martinez Detention Facility, he was housed in A Module, also known as the gang
21 unit.
22

23 25. The inmates housed in A Module consists of the general population and of
24 Norteño criminal street gang affiliates/associates/members. The Norteño criminal street gang is
25 a violent criminal organization whose primary activities include murder, attempted murder, and
26 violent assaults. The majority of its members are of Latin-American descent.
27
28

1 26. Defendant CONTRA COSTA COUNTY SHERIFF'S OFFICE receives
2 extensive and exhaustive information about the Norteño criminal street gang by observing
3 inmate members, associates and affiliates, classification interviews, monitoring telephone calls,
4 reviewing police and jail incident reports, searching jail cells, reading inmate mail, and
5 "debriefing" interviews.
6

7 27. Defendant CONTRA COSTA COUNTY SHERIFF'S OFFICE requires all
8 inmates desiring to withdraw from the gang to submit to debriefing interviews. During
9 debriefing interviews, Defendant CONTRA COSTA COUNTY SHERIFF'S OFFICE requires
10 the inmates to tell them all the information they know about the gang. Only inmates that debrief
11 are allowed to withdraw from the gang and thus be reclassified to another module.
12

13 28. Defendant CONTRA COSTA COUNTY SHERIFF'S OFFICE has a training
14 unit that instructs its employee deputies working in the jails and outside police agencies on
15 Norteño criminal street gang activity. Contra Costa County Sheriff Deputies teach the trainings.
16 Topics included in the trainings are the classification process, gang behavior in the Martinez
17 Detention Facility, recognition of gang tattoos, recognition of gang clothing, and recognition of
18 numbers, signs, and symbols associated with gangs. All trainings are specific to each gang (e.g.
19 the Norteño criminal street gang).
20

21 29. Defendant CONTRA COSTA COUNTY SHERIFF'S OFFICE supports the
22 power structure within the gang by housing the Authority in Charge (AOC), "shot callers" of
23 the Norteño criminal street gang, in a designated cell. Having the Authority in Charge housed in
24 the same cell allows gang activity to flourish inside the Martinez Detention Facility.
25

26 30. Defendant CONTRA COSTA COUNTY SHERIFF'S OFFICE also supports the
27 power structure within the gang by turning each inmate assigned to A Module over to two
28 Norteños members who act as "ambassadors." These "ambassador" Norteño inmates greet and

1 escort each new inmate throughout A Module and are allowed to orient the inmate to the gang's
2 policies and procedures within the Module. Defendant CONTRA COSTA COUNTY
3 SHERIFF'S OFFICE sanctions a hazing procedure they call a "freeze." During the "freeze"
4 new inmates are deprived of privileges normally afforded to all inmates such as "commissary
5 shoes" and television viewing time. The new inmate is brought in with jail issued sandals and
6 later provided with "commissary issued" shoes by the Norteño criminal street gang
7 affiliates/associates/members. The new inmate could be without commissary shoes for weeks.
8 When the inmate is given shoes and permitted to watch television, this normally means the gang
9 has accepted them.
10

11
12 31. Defendant CONTRA COSTA COUNTY SHERIFF'S OFFICE and Defendants
13 OMAR DELEON, ANTONIO ROSAS and DOES 3 to 4 colluded with the Norteño criminal
14 street gang by allowing formal Norteño criminal street gang activity to occur within the
15 Martinez Detention Facility. This occurred when the aforementioned defendants knowingly
16 allowed the freeze to take place, handed newly housed inmates over to Norteño criminal street
17 gang member inmate "ambassadors," informed Norteño criminal street gang member inmates of
18 gaps in security, allowed them to possess contraband, permitted them to handle conflicts
19 violently amongst themselves and without police intervention and, covered up gang activity.
20

21 32. Employees of Defendant CONTRA COSTA COUNTY SHERIFF'S OFFICE
22 previously complained to Defendants CONTRA COSTA COUNTY SHERIFF'S OFFICE and
23 DAVID O. LIVINGSTON about insufficient staffing in A Module. The sheriff deputy to inmate
24 ratio in Martinez Detention Facility is two (2) deputies to twenty-five (25) inmates when a
25 portion of inmates are out of their cells during "free time." Employees of Defendant CONTRA
26 COSTA COUNTY SHERIFF'S OFFICE also complained that the A module courtyard's
27 camera does not rotate and has large blind spots. The combination of a lack of sufficient staffing
28

1 and the blind spots in the cameras resulted in safety issues for Plaintiff JEARHAMEL
2 FANARO and other inmates and proximately caused physical attacks.

3 33. On May 8, 2018, Defendants CONTRA COSTA COUNTY SHERIFF'S
4 OFFICE, DAVID O. LIVINGSTON, OMAR DELEON, ANTONIO ROSAS, and DOES 3 to 4
5 knowingly handed over Plaintiff JEARHAMEL FANARO to two Norteño ranking members
6 with the intention of subjecting him to a "freeze."
7

8 34. Inmate cells are equipped with call buttons. These call buttons are used to gain
9 the attention of the sheriff deputies working in the modules. These buttons are generally pressed
10 when there is a medical emergency or when the inmate wants to "debrief." When the call button
11 is pushed there is an alert system at the deputy's desk. This notifies the deputies that a button in
12 a cell has been pushed.
13

14 35. Defendants CONTRA COSTA COUNTY SHERIFFS OFFICE, OMAR
15 DELEON, ANTONIO ROSAS and DOES 3 to 4 abdicate security responsibilities to the
16 Norteño criminal street gang by having inmate gang members respond to the cells when call
17 buttons are pushed. This is in violation of their fiduciary duty that is owed to all inmates in
18 Martinez Detention Facility, including Plaintiff JEARHAMEL FANARO.
19

20 36. Plaintiff JEARHAMEL FANARO pressed the call button in his cell to gain the
21 Defendants DOES 3 to 4's attention. Plaintiff JEARHAMEL FANARO's intention was to
22 inform Defendants CONTRA COSTA COUNTY SHERIFF'S OFFICE and DOES 3 to 4 of his
23 desire to withdraw from the Norteño criminal street gang.
24

25 37. Instead of Defendants DOES 3 to 4 responding to the call button, they permitted
26 Norteño criminal street gang member inmates to enter Plaintiff JEARHAMEL FANARO's cell.
27

28 38. The Norteño criminal street gang member inmates entered Plaintiff
JEARHAMEL FANARO'S cell and shut off the call button. They then questioned Plaintiff

1 JEARHAMEL FANARO regarding the reason he pressed the call button in his cell. To avoid a
2 dangerous confrontation, Plaintiff JEARHAMEL FANARO claimed he was ill.

3 39. Defendants DOES 3 to 4 never entered Plaintiff JEARHAMEL FANARO's cell
4 nor followed up with him to determine the reason Plaintiff JEARHAMEL FANARO pressed
5 the call button.
6

7 40. The Norteño criminal street gang member inmates then forced Plaintiff
8 JEARHAMEL FANARO to be "escorted" by one of the gang affiliates/associates/members at
9 all times so that he never had the chance to explicitly inform Defendant CONTRA COSTA
10 COUNTY SHERIFF'S OFFICE his intention to withdraw.
11

12 41. Based on the Norteño criminal street gang member inmate's behavior, however,
13 the Defendants DOES 3 to 4 knew from their trainings with Defendant CONTRA COSTA
14 COUNTY SHERIFF'S OFFICE and their professional experience, the Norteño criminal street
15 gang member inmates were planning to attack Plaintiff JEARHAMEL FANARO. Defendants
16 DOES 3 to 4 should have taken action to protect Plaintiff JEARHAMEL FANARO, based on
17 their knowledge and observations that an attack was imminent, but failed to do so.
18

19 42. Defendants OMAR DELEON, ANTONIO ROSAS and DOES 3 to 4 did nothing
20 to protect Plaintiff JEARHAMEL FANARO because he is not afforded the same level of
21 protection as the Latino inmates in A Module. Plaintiff JEARHAMEL FANARO is a Filipino-
22 American who was housed in a primarily Latin-American module of Martinez Detention
23 Facility.
24

25 43. On May 15, 2018, Defendant THOMAS LEON handed Plaintiff JEARHAMEL
26 FANARO a pair of shoes falsely signaling the end of the "freeze." Defendant THOMAS LEON
27 then told Plaintiff JEARHAMEL FANARO another inmate wanted to speak to him in the A
28 Module courtyard.

1 44. The Norteño criminal street gang member inmates chose to lure Plaintiff
2 JEARHAMEL FANARO to the A Module courtyard because Defendants OMAR DELEON,
3 ANTONIO ROSAS and DOES 3 to 4 informed the inmates that the camera outside was a fixed
4 static view with large blind spots.
5

6 45. Another reason the Norteño criminal street gang member inmates chose to lure
7 Plaintiff JEARHAMEL FANARO to the A Module Courtyard is, the sheriff deputies had not
8 been completing their security patrol “rounds” on the roof top area. Defendant CONTRA
9 COSTA COUNTY SHERIFF’S OFFICE has a policy to patrol the roof top area to monitor
10 inmate activity in the outdoor courtyards.
11

12 46. In the A Module courtyard Defendants FRANCISCO RAMIREZ, THOMAS
13 LEON, and FRANCISCO VARGAS attacked Plaintiff JEARHAMEL FANARO. Plaintiff
14 JEARHAMEL FANARO attempted to leave the courtyard, but due to his injuries, was
15 temporarily blinded and fell to the ground.
16

17 47. When Plaintiff JEARHAMEL FANARO stood up and attempted to walk inside,
18 Defendants FRANCISCO RAMIREZ, THOMAS LEON, and FRANCISCO VARGAS attacked
19 him again. During this second attack, Plaintiff JEARHAMEL FANARO attempted to defend
20 himself, so Defendants DOES 5 to 6 joined the attack. One placed Plaintiff JEARHAMEL
21 FANARO in a “chokehold” and the four others continued to beat JEARHAMEL FANARO.
22 When the attack was over Plaintiff JEARHAMEL FANARO was told to “rollover,” in which he
23 interpreted they were going to kill him. However, Defendants FRANCISCO RAMIREZ,
24 THOMAS LEON, FRANCISCO VARGAS and DOES 5 to 6 had returned inside A Module.
25

26 48. The attack on Plaintiff JEARHAMEL FANARO lasted fifteen (15) to twenty-
27 five (25) minutes and left a ten (10) feet long by six (6) feet wide blood stain on the ground.
28 This time frame was over the course of two separate “free time” periods. Even though

1 Defendants FRANCISCO RAMIREZ, THOMAS LEON, and FRANCISCO VARGAS and
2 DOES 4 to 5 were supposed to return to their cells when their “free time” ended, Defendants
3 OMAR DELEON and ANTONIO ROSAS allowed them to stay in the courtyard and continue
4 attacking Plaintiff JEARHAMEL FANARO.
5

6 49. The attack occurred in the A Module courtyard camera blind spot. Defendants
7 CONTRA COSTA COUNTY SHERIFF’S OFFICE and OMAR DELEON and ANTONIO
8 ROSAS did not intervene during the fifteen (15) to twenty-five (25) minute attack on Plaintiff
9 JEARHAMEL FANARO.
10

11 50. Further, there is a central camera monitoring system at the Martinez Detention
12 Facility and due to the blind spots in the courtyard, no one in the control center could see the
13 attack taking place and thus were unable to send additional sheriff’s deputies to intervene. Had
14 the control center seen the attack and sent additional deputies to intervene, Plaintiff
15 JEARHAMEL FANARO would not have been as seriously injured as he was. Defendants
16 FRANCISCO RAMIREZ, THOMAS LEON, FRANCISCO VARGAS, and DOES 4 to 5
17 exploited the information they received from Defendants OMAR DELEON, ANTONIO
18 ROSAS and DOES 3 to 4 about this security gap to execute the attack on Plaintiff
19 JEARHAMEL FANARO without the intervention of other sheriff’s deputies.
20

21 51. Defendants OMAR DELEON and ANTONIO ROSAS knew the attack was
22 occurring and had an explicit or tacit agreement with Norteño criminal street gang members
23 Defendants FRANCISCO RAMIREZ, THOMAS LEON, and FRANCISCO VARGAS and
24 DOES 4 to 5 to allow the attack to occur, uninterrupted.
25

26 52. Norteño criminal street gang member inmates signaled Defendants OMAR
27 DELEON and ANTONIO ROSAS by their words, by making eye contact with them, and by
28 openly guarding Plaintiff JEARHAMEL FANARO. Further, Defendants OMAR DELEON and

1 ANTONIO ROSAS saw the other inmate's watching the attack in A Module courtyard and
2 Defendants OMAR DELEON and ANTONIO ROSAS had a partial view of the courtyard from
3 the deputies' desk. Finally, OMAR DELEON and ANTONIO ROSAS heard the attack and
4 Plaintiff JEARHAMEL FANARO's screams, cries, and grunts. Defendants OMAR DELEON
5 and ANTONIO ROSAS did nothing to stop the attack. Defendants OMAR DELEON and
6 ANTONIO ROSAS were complicit in the attack by acting as a "look-out" and keeping
7 Defendants FRANCISCO RAMIREZ, THOMAS LEON, FRANCISCO VARGAS, and DOES
8 4 to 5 from being caught in the act of committing the attack.
9

10
11 53. Plaintiff JEARHAMEL FANARO stumbled inside to the deputies' desk after
12 Defendants FRANCISCO RAMIREZ, THOMAS LEON, FRANCISCO VARGAS, and DOES
13 4 to 5 reentered A Module. Defendants OMAR DELEON and ANTONIO ROSAS did not aide
14 Plaintiff JEARHAMEL FANARO until he asked for help. Further, Defendants OMAR
15 DELEON and ANTONIO ROSAS did not discipline Defendants FRANCISCO RAMIREZ,
16 THOMAS LEON, FRANCISCO VARGAS, and DOES 4 to 5 for being out of their cells.
17 Defendants FRANCISCO RAMIREZ, THOMAS LEON, FRANCISCO VARGAS, and DOES
18 4 to 5 should have been disciplined because they violated the jail rules for being out of their
19 cells when their "free time" had ended.
20

21 54. After Plaintiff JEARHAMEL FANARO asked for help, Defendant CONTRA
22 COSTA SHERIFF'S OFFICE called an ambulance and Plaintiff JEARHAMEL FANARO was
23 transported to John Muir Medical Center.
24

25 55. At John Muir Medical Center it was determined that as a result of the attack,
26 Plaintiff JEARHAMEL FANARO suffered from multiple broken bones as well as other
27 injuries.
28

MUNICIPAL AND SUPERVISORY ALLEGATIONS

1 56. All allegations made herein are based on information and belief.

2 57. Defendant DAVID O. LIVINGSTON, acting as Sheriff, is the final policy-
3 making authority for Defendants COUNTY OF CONTRA COSTA and CONTRA COSTA
4 COUNTY SHERIFF'S OFFICE as it relates to the training, supervision, and discipline of
5 sheriff's deputies employed at Contra Costa County Jail, Martinez Detention Facility, and
6 acting under his command. *See* CAL. CONST. ART. XI § 1(b).
7

8 58. As final policy maker, Defendant DAVID O. LIVINGSTON created safety and
9 security policies for the Martinez Detention Facility. These policies include how the deputies
10 are assigned to modules, how the deputies are to handle violent incidents between , what type of
11 cameras are to be used in the jail, where the cameras are to be placed, how many deputies per
12 inmate, inmate privileges, and rules regarding discipline for rule violations.
13

14 59. Defendants COUNTY OF CONTRA COSTA, CONTRA COSTA COUNTY
15 SHERIFF'S OFFICE, and DAVID O. LIVINGSTON knew that the subordinate employees
16 under their command, including Defendants OMAR DELEON, ANTONTIO ROSAS and
17 DOES 3 to 4, were inadequately trained, supervised, or disciplined resulting from their
18 inadequate policies, customs, or practices concerning unreasonable negligence and lack of
19 protection of the inmates, including Plaintiff JEARHAMEL FANARO.
20

21 60. Defendants COUNTY OF CONTRA COSTA, CONTRA COSTA COUNTY
22 SHERIFF'S OFFICE, and DAVID O. LIVINGSTON maintained policies, customs, or practices
23 deliberately indifferent to or acquiescing to, or failed to maintain policies, customs, or practices
24 when it was obvious they were needed to prevent the negligence and lack of protection of the
25 inmates at the Martinez Detention Facility. The presence of these policies, customs, or practices
26 is confirmed by and consistent with the negligence and lack of protection of JEARHAMEL
27 FANARO by Defendants OMAR DELEON and ANTONIO ROSAS.
28

1 61. Defendant DAVID O. LIVINGSTON knew there are/has been a group of sheriff
2 deputies employed by Defendants COUNTY OF CONTRA COSTA, CONTRA COSTA
3 COUNTY SHERIFF'S OFFICE, and DAVID O. LIVINGSTON working at Martinez Detention
4 Facility that conspired with the inmates to permit them to "control" A Module which put
5 Plaintiff JEARHAMEL FANARO as well as other inmates in harm's way. With this
6 knowledge, Defendant DAVID O. LIVINGSTON allowed the deputies to continue working and
7 did not relieve them of their fiduciary posts.
8

9 62. Multiple Sheriff Deputies have made complaints to Defendants CONTRA
10 COSTA COUNTY SHERIFF'S OFFICE, and DAVID O. LIVINGSTON, regarding the limited
11 camera views in A Module Courtyard and a lack of staffing. The Defendants CONTRA COSTA
12 COUNTY SHERIFF'S OFFICE, and DAVID O. LIVINGSTON did nothing to fix either of
13 these problems which could have been done by securing a budget necessary for adequate
14 staffing and equipment. Failure to fix the problems resulted in the inmates exploiting the gaps in
15 security which put Sheriff Deputies working at the Martinez Detention Facility, and the
16 inmates, including Plaintiff JEARHAMEL FANARO, at a serious risk of harm.
17

18 63. Additional evidence and information related to Defendants COUNTY OF
19 CONTRA COSTA, CONTRA COSTA COUNTY SHERIFF'S OFFICE, and DAVID O.
20 LIVINGSTON's policies, customs, or practices will be sought and obtained during the course
21 of this litigation. These documents have previously been requested on four separate occasions
22 through the California Public Records Act, but Defendants COUNTY OF CONTRA COSTA,
23 CONTRA COSTA COUNTY SHERIFF'S OFFICE, and DAVID O. LIVINGSTON denied the
24 requests.
25

26 64. Defendants DAVID O. LIVINGSTON, COUNTY OF CONTRA COSTA, and
27 CONTRA COSTA COUNTY SHERIFF'S OFFICE know there is an epidemic of violent
28

1 attacks, yet the deputies have not been disciplined for failure to enforce inmate rules and there
 2 has not been any attempt to resolve this.

3 65. Defendants DAVID O. LIVINGSTON, COUNTY OF CONTRA COSTA, and
 4 CONTRA COSTA COUNTY SHERIFF'S OFFICE knew of violent gang behavior in Martinez
 5 Detention Facility, yet they created a policy of housing gang members in a manner that put
 6 inmates at risk of physical attack, whether those inmates were gang members in lower standing,
 7 gang dropouts, or general population.
 8

9 66. Defendant DAVID O. LIVINGSTON knew everything alleged in this complaint
 10 from reports and briefings he received in person, over email, and/or oral reports.
 11

12 67. Although access to the existence or absence of internal policies customs, or
 13 practices, prior to discovery, is necessarily limited, on information and belief, Defendants
 14 COUNTY OF CONTRA COSTA, CONTRA COSTA COUNTY SHERIFF'S OFFICE, and
 15 DAVID O. LIVINGSTON have access and/or knowledge of past events and of statements of
 16 internal policies, customs or practices at issue and, in some respects, may be in sole possession
 17 of evidence and facts needed to support or refute these claims.
 18

19 **EQUITABLE ALLEGATIONS**

20 68. On information and belief, unless enjoined from federal and state constitutional
 21 provisions safeguarding the conditions of inmates' safety and well-being at the Contra Costa
 22 County Jail, Defendants COUNTY OF CONTRA COSTA, CONTRA COSTA COUNTY
 23 SHERIFF'S OFFICE, DAVID O. LIVINGSTON, OMAR DELEON, ANTONIO ROSAS and
 24 DOES 3 to 4, disregard of those constitutional provisions will continue, and more inmates will
 25 likely be damaged just as Plaintiff JEARHAMEL FANARO was damaged.
 26

27 **FIRST CLAIM**

28 **Special Relationship**

COMPLAINT

(Fourteenth Amendment to the U.S. Constitution; 42 U.S.C. § 1983)

69. The First Claim is asserted by Plaintiff JEARHAMEL FANARO, on behalf of himself, against Defendants COUNTY OF CONTRA COSTA, CONTRA COSTA COUNTY SHERIFF'S OFFICE, DAVID O. LIVINGSTON, OMAR DELEON, ANTONIO ROSAS and DOES 3 and 4.

70. Plaintiff JEARHAMEL FANARO re-alleges and incorporates the allegations of the preceding paragraphs 1 to 68, to the extent relevant, as if fully set forth in this claim.

71. Defendants COUNTY OF CONTRA COSTA, CONTRA COSTA COUNTY SHERIFF'S OFFICE, DAVID O. LIVINGSTON, OMAR DELEON, ANTONIO ROSAS, and DOES 3 to 4, acting under color of state law and as policy-making authorities, and while maintaining a custodial relationship over Plaintiff JEARHAMEL FANARO, failed to adequately provide for his safety and well-being by maintaining policies, customs, or practices when it was obvious that they were needed to prevent the severe attack, and were the moving force behind Defendant DAVID O. LIVINGSTON, OMAR DELEON, ANTONIO ROSAS and, DOES 3 to 4's violations of Plaintiff JEARHAMEL FANARO's rights secured by the Fourteenth Amendment of the United States Constitution.

72. Defendants DAVID O. LIVINGSTON, OMAR DELEON, ANTONIO ROSAS and DOES 3 to 4's actions and inactions were motivated by evil motive or intent, involved reckless or callous indifference to Plaintiff JEARHAMEL FANARO's rights secured by the Fourteenth Amendment of the U.S. Constitution, or were wantonly or oppressively done.

73. As a direct and proximate result of Defendants COUNTY OF CONTRA COSTA, CONTRA COSTA COUNTY SHERIFF'S OFFICE, DAVID O. LIVINGSTON, OMAR DELEON, ANTONIO ROSAS and DOES 3 to 4 action and inactions, Plaintiff JEARHAMEL FANARO suffered injuries entitling him to receive compensatory damages

against Defendants COUNTY OF CONTRA COSTA, CONTRA COSTA COUNTY SHERIFF'S OFFICE, DAVID O. LIVINGSTON, OMAR DELEON, ANTONIO ROSAS and DOES 3 to 4, declaratory and injunctive relief against Defendants COUNTY OF CONTRA COSTA, CONTRA COSTA COUNTY SHERIFF'S OFFICE, DAVID O. LIVINGSTON, OMAR DELEON, ANTONIO ROSAS, and DOES 3 to 4, and punitive damages against Defendants COUNTY OF CONTRA COSTA, CONTRA COSTA COUNTY SHERIFF'S OFFICE, DAVID O. LIVINGSTON, OMAR DELEON, ANTONIO ROSAS, and DOES 3 to 4.

WHEREFORE, Plaintiff JEARHAMEL FANARO prays for relief as hereunder appears

SECOND CLAIM

Unlawful Official Policy, Practice, or Custom

(Eighth Amendment to the U.S. Constitution; 42 U.S.C. § 1983)

74. The Second Claim is asserted by Plaintiff JEARHAMEL FANARO against Defendants COUNTY OF CONTRA COSTA, CONTRA COSTA COUNTY SHERIFF'S OFFICE, DAVID O. LIVINGSTON, OMAR DELEON, ANTONIO ROSAS, and DOES 3 to 4.

75. Plaintiff JEARHAMEL FANARO re-alleges and incorporates the allegations of the preceding paragraphs 1 to 68, to the extent relevant as if fully set forth in this Claim.

76. Defendants COUNTY OF CONTRA COSTA, CONTRA COSTA COUNTY SHERIFF'S OFFICE, DAVID O. LIVINGSTON, OMAR DELEON, ANTONIO ROSAS, and DOES 3 to 4 acting or purporting to act in the performance of their official duties under color of state law deprived Plaintiff JEARHAMEL FANARO of his Eighth Amendment Rights of the United States Constitution, the right to be free from cruel and unusual punishment.

77. Defendants COUNTY OF CONTRA COSTA, CONTRA COSTA COUNTY SHERIFF'S OFFICE, DAVID O. LIVINGSTON, OMAR DELEON, ANTONIO ROSAS and DOES 3 to 4, acted pursuant to an expressly adopted official policy or a widespread or

1 longstanding custom and as a result, the Defendants COUNTY OF CONTRA COSTA,
 2 CONTRA COSTA COUNTY SHERIFF'S OFFICE, DAVID O. LIVINGSTON, OMAR
 3 DELEON, ANTONIO ROSAS and DOES 3 to 4 deprived Plaintiff JEARHAMEL FANARO's
 4 rights which ultimately caused Plaintiff JEARHAMEL FANARO's injuries.
 5

6 78. As a direct and proximate result of Defendants COUNTY OF CONTRA
 7 COSTA, CONTRA COSTA COUNTY SHERIFF'S OFFICE, DAVID O. LIVINGSTON,
 8 OMAR DELEON, ANTONIO ROSAS and DOES 3 to 4 action and inactions, Plaintiff
 9 JEARHAMEL FANARO suffered injuries entitling him to receive compensatory damages
 10 against Defendants COUNTY OF CONTRA COSTA, CONTRA COSTA COUNTY
 11 SHERIFF'S OFFICE, DAVID O. LIVINGSTON, OMAR DELEON, ANTONIO ROSAS, and
 12 DOES 3 to 4, declaratory and injunctive relief against Defendants COUNTY OF CONTRA
 13 COSTA, CONTRA COSTA COUNTY SHERIFF'S OFFICE, DAVID O. LIVINGSTON,
 14 OMAR DELEON, ANTONIO ROSAS and DOES 3 to 4, and punitive damages against
 15 Defendants COUNTY OF CONTRA COSTA, CONTRA COSTA COUNTY SHERIFF'S
 16 OFFICE, DAVID O. LIVINGSTON, OMAR DELEON, ANTONIO ROSAS and DOES 3 to 4.
 17

18 WHEREFORE, Plaintiff JEARHAMEL FANARO prays for relief as hereunder appears.
 19

20 **THIRD CLAIM**

21 **Act of Final Policy Maker**

22 **(Eighth Amendment to the U.S. Constitution; 42 U.S.C. § 1983)**

23 79. The Third Claim is asserted by Plaintiff JEARHAMEL FANARO, on behalf of
 24 himself, against Defendants, DAVID O. LIVINGSTON and CONTRA COSTA COUNTY
 25 SHERIFF'S OFFICE.
 26

27 80. Plaintiff JEARHAMEL FANARO re-alleges and incorporates the allegations of
 28 the preceding paragraphs 1 to 68, to the extent relevant, as if fully set forth in this claim.

81. DAVID O. LIVINGSTON and CONTRA COSTA COUNTY SHERIFF'S OFFICE acted under the color of state law which deprived Plaintiff JEARHAMEL FANARO of his particular rights under the United States Constitution.

82. DAVID O. LIVINGSTON and CONTRA COSTA COUNTY SHERIFF'S OFFICE had final policymaking authority and acted as the final policymaker for Defendant COUNTY OF CONTRA COSTA and Defendant DAVID O. LIVINGSTON acts were so closely related to Plaintiff JEARHAMEL FANARO's deprivation of rights which was the ultimate cause of his injuries.

83. As a direct and proximate result of Defendants, CONTRA COSTA COUNTY SHERIFF'S OFFICE and DAVID O. LIVINGSTON's actions and inactions, Plaintiff JEARHAMEL FANARO suffered injuries entitling him to receive compensatory damages against Defendants CONTRA COSTA COUNTY SHERIFF'S OFFICE and DAVID O. LIVINGSTON, declaratory and injunctive relief against Defendants CONTRA COSTA COUNTY SHERIFF'S OFFICE, and DAVID O. LIVINGSTON and punitive damages against Defendants CONTRA COSTA COUNTY SHERIFF'S OFFICE and DAVID O. LIVINGSTON.

WHEREFORE, Plaintiff JEARHAMEL FANARO prays for relief as hereunder appears.

FOURTH CLAIM

Policy that fails to train

(Eighth Amendment to the U.S. Constitution; 42 U.S.C. § 1983)

84. The Fourth Claim is asserted by Plaintiff JEARHAMEL FANARO, on behalf of himself, against Defendants, DAVID O. LIVINGSTON, CONTRA COSTA COUNTY SHERIFF'S OFFICE, OMAR DELEON, ANTONIO ROSAS and DOES 3 to 4.

1 85. Plaintiff JEARHAMEL FANARO re-alleges and incorporates the allegations of
2 the preceding paragraphs 1 to 68, to the extent relevant, as if fully set forth in this claim.

3 86. The failure to act of Defendants OMAR DELEON, ANTONIO ROSAS and
4 DOES 3 to 4 deprived Plaintiff JEARHAMEL FANARO of his United States Constitutional
5 rights.
6

7 87. Defendants OMAR DELEON, ANTONIO ROSAS and DOES 3 to 4 were acting
8 under the color of state law when they were not adequately trained by Defendants DAVID O.
9 LIVINGSTON, CONTRA COSTA COUNTY SHERIFF'S OFFICE to handle usual and
10 reoccurring situations, like fights between inmates.
11

12 88. Defendants DAVID O. LIVINGSTON, CONTRA COSTA COUNTY
13 SHERIFF'S OFFICE were deliberately indifferent to the obvious consequences of its failure to
14 train its Sheriff Deputies adequately. This failure to train caused a deprivation of JEARHAMEL
15 FANARO'S rights and was the ultimate cause of JEARHAMEL FANARO'S injuries.
16

17 89. As a direct and proximate result of Defendants CONTRA COSTA COUNTY
18 SHERIFF'S OFFICE, DAVID O. LIVINGSTON, OMAR DELEON, ANTONIO ROSAS and
19 DOES 3 to 4's actions and inactions, Plaintiff JEARHAMEL FANARO suffered injuries
20 entitling him to receive compensatory damages against Defendants CONTRA COSTA
21 COUNTY SHERIFF'S OFFICE, DAVID O. LIVINGSTON, OMAR DELEON, ANTONIO
22 ROSAS and DOES 3 to 4, declaratory and injunctive relief against Defendants CONTRA
23 COSTA COUNTY SHERIFF'S OFFICE, DAVID O. LIVINGSTON, OMAR DELEON,
24 ANTONIO ROSAS and DOES 3 to 4, and punitive damages against Defendants CONTRA
25 COSTA COUNTY SHERIFF'S OFFICE, DAVID O. LIVINGSTON, OMAR DELEON,
26 ANTONIO ROSAS and DOES 3 to 4.
27
28

WHEREFORE, Plaintiff JEARHAMEL FANARO prays for relief as hereunder appears.

FIFTH CLAIM

State-Created Danger

(Fourteenth Amendment to the U.S. Constitution; 42 U.S.C. § 1983)

90. The Fifth Claim is asserted by Plaintiff JEARHAMEL FANARO, on behalf of himself, against Defendants COUNTY OF CONTRA COSTA, CONTRA COSTA COUNTY SHERIFF'S OFFICE, and DAVID O. LIVINGSTON.

91. Plaintiff JEARHAMEL FANARO re-alleges and incorporates the allegations of the preceding paragraphs 1 to 68, to the extent relevant, as if fully set forth in this claim.

92. Defendants COUNTY OF CONTRA COSTA, CONTRA COSTA COUNTY SHERIFF'S OFFICE, and DAVID O. LIVINGSTON, acting under the color of law and as policy-making authorities, affirmatively placed Plaintiff JEARHAMEL FANARO in a position of danger by maintaining policies, customs, or practices permitting deliberate indifference to, or failed to maintain policies customs, or practices when it was obvious that they were needed, to prevent the brutal attack Plaintiff JEARHAMEL FANARO endured at the hands of other inmates without any interference, and were the moving force behind Defendants OMAR DELEON, ANTONIO ROSAS and DOES 3 to 4's violations of Plaintiff JEARHAMEL FANARO's rights secured by Art. I, §7 of the California Constitution.

93. Defendants COUNTY OF CONTRA COSTA and CONTRA COSTA COUNTY SHERIFF'S OFFICE are indirectly and vicariously liable, through the principles of *respondeat superior*, for injuries proximately caused by acts or omissions of their employees acting within the scope of their employment.

94. Defendant DAVID O. LIVINGSTON's actions and inactions constituted oppression and/or malice resulting in great harm to Plaintiff JEARHAMEL FANARO.

95. As a direct and proximate result of Defendants COUNTY OF CONTRA COSTA, CONTRA COSTA COUNTY SHERIFF'S OFFICE, and DAVID O. LIVINGSTON action and inactions, Plaintiff JEARHAMEL FANARO suffered injuries entitling him to receive compensatory damages against Defendants COUNTY OF CONTRA COSTA, CONTRA COSTA COUNTY SHERIFF'S OFFICE, DAVID O. LIVINGSTON and OMAR DELEON, ANTONIO ROSAS, declaratory and injunctive relief against Defendants COUNTY OF CONTRA COSTA, CONTRA COSTA COUNTY SHERIFF'S OFFICE, DAVID O. LIVINGSTON, OMAR DELEON, ANTONIO ROSAS and DOES 3 to 4, and punitive damages against Defendants COUNTY OF CONTRA COSTA, CONTRA COSTA COUNTY SHERIFF'S OFFICE, DAVID O. LIVINGSTON, OMAR DELEON, ANTONIO ROSAS and DOES 3 to 4.

WHEREFORE, Plaintiff JEARHAMEL FANARO prays for relief as hereunder appears.

SIXTH CLAIM

Special Relationship

(Article I, § 7 to the California Constitution; CAL. GOV. CODE §§ 815.2(a) & 820(a))

96. The Sixth Claim is asserted by Plaintiff JEARHAMEL FANARO, on behalf of himself, against Defendants COUNTY OF CONTRA COSTA, CONTRA COSTA COUNTY SHERIFF'S OFFICE, DAVID O. LIVINGSTON, OMAR DELEON, ANTONIO ROSAS and DOES 3 to 4.

97. Plaintiff JEARHAMEL FANARO re-alleges and incorporates the allegations of the preceding paragraphs 1 to 68, to the extent relevant, as if fully set forth in this claim.

98. Defendants COUNTY OF CONTRA COSTA, CONTRA COSTA COUNTY SHERIFF'S OFFICE, DAVID O. LIVINGSTON, OMAR DELEON, ANTONIO ROSAS and DOES 3 to 4, acting under color of state law and as policy-making authorities, and while

maintaining a custodial relationship over Plaintiff JEARHAMEL FANARO, failed to adequately provide for his safety and well-being by maintaining policies, customs, or practices when it was obvious they were needed to prevent the severe attack, and were the moving force behind Defendants DAVID O. LIVINGSTON, OMAR DELEON, ANTONIO ROSAS and DOES 3 to 4's violations of Plaintiff JEARHAMEL FANARO's rights secured by the Fourteenth Amendment of the United States Constitution.

99. Defendants DAVID O. LIVINGSTON, OMAR DELEON, ANTONIO ROSAS and DOES 3 to 4's actions and inactions were motivated by evil motive or intent, involved reckless or callous indifference to Plaintiff JEARHAMEL FANARO's rights secured by the Fourteenth Amendment of the U.S. Constitution, or were wantonly or oppressively done.

100. As a direct and proximate result of Defendants COUNTY OF CONTRA COSTA, CONTRA COSTA COUNTY SHERIFF'S OFFICE, DAVID O. LIVINGSTON, OMAR DELEON, ANTONIO ROSAS and DOES 3 to 4 action and inactions, Plaintiff JEARHAMEL FANARO suffered injuries entitling him to receive compensatory damages against Defendants COUNTY OF CONTRA COSTA, CONTRA COSTA COUNTY SHERIFF'S OFFICE, DAVID O. LIVINGSTON, OMAR DELEON, ANTONIO ROSAS and DOES 3 to 4, declaratory and injunctive relief against Defendants COUNTY OF CONTRA COSTA, CONTRA COSTA COUNTY SHERIFF'S OFFICE, DAVID O. LIVINGSTON, OMAR DELEON, ANTONIO ROSAS and DOES 3 to 4, and punitive damages against Defendants COUNTY OF CONTRA COSTA, CONTRA COSTA COUNTY SHERIFF'S OFFICE, DAVID O. LIVINGSTON, OMAR DELEON, ANTONIO ROSAS and DOES 3 to 4.

WHEREFORE, Plaintiff JEARHAMEL FANARO prays for relief as hereunder appears

SEVENTH CLAIM

Unruh Civil Rights Act

COMPLAINT

(CAL. CIV. CODE § 51)

101. The Seventh Claim is asserted by Plaintiff JEARHAMEL FANARO, on behalf of himself, against Defendants COUNTY OF CONTRA COSTA, CONTRA COSTA COUNTY SHERIFF'S OFFICE, DAVID O. LIVINGSTON, OMAR DELEON, ANTONIO ROSAS and DOES 3 to 4.

102. Plaintiff JEARHAMEL FANARO re-alleges and incorporates the allegations of the preceding paragraphs 1 to 68, to the extent relevant, as if fully set forth in this claim.

103. All persons within the jurisdiction of this state are free and equal, and no matter what their sex, race, color, religion, ancestry, national origin, disability, medical condition, genetic information, marital status, sexual orientation, citizenship, primary language, or immigration status are entitled to the full and equal accommodations, advantages, facilities, privileges, or services in all business establishments of every kind whatsoever.

104. Plaintiff JEARHAMEL FANARO is a racial minority, a Filipino-American, and thus a member of a protected class. The Norteño criminal street gang is a primarily a Latin-American organization.

105. Plaintiff JEARHAMEL FANARO was not afforded equal protection under law as were the other Norteño criminal street gang affiliates/associates/members who were of a different race than him. Thus, he was discriminated against because of his race.

106. As a direct and proximate result of Defendants COUNTY OF CONTRA COSTA, CONTRA COSTA COUNTY SHERIFF'S OFFICE, DAVID O. LIVINGSTON, OMAR DELEON, ANTONIO ROSAS's actions and inactions, Plaintiff JEARHAMEL FANARO suffered injuries entitling him to receive compensatory damages against Defendants COUNTY OF CONTRA COSTA, CONTRA COSTA COUNTY SHERIFF'S OFFICE, DAVID O. LIVINGSTON, OMAR DELEON, ANTONIO ROSAS and DOES 3 to 4, declaratory and

1 injunctive relief against Defendants COUNTY OF CONTRA COSTA, CONTRA COSTA
2 COUNTY SHERIFF'S OFFICE, DAVID O. LIVINGSTON, OMAR DELEON, ANTONIO
3 ROSAS and DOES 3 to 4, and punitive damages against Defendants COUNTY OF CONTRA
4 COSTA, CONTRA COSTA COUNTY SHERIFF'S OFFICE, DAVID O. LIVINGSTON,
5 OMAR DELEON, ANTONIO ROSAS and DOES 3 to 4.
6

7 WHEREFORE, Plaintiff JEARHAMEL FANARO prays for relief as hereunder appears.
8

9 **EIGHTH CLAIM**

10 **State-Created Danger**

11 **(Article I, § 7 to the California Constitution; CAL. GOV. CODE §§ 815.2(a) & 820(a))**

12 107. The Eighth Claim is asserted by Plaintiff JEARHAMEL FANARO, on behalf of
13 himself, against Defendants COUNTY OF CONTRA COSTA, CONTRA COSTA COUNTY
14 SHERIFF'S OFFICE, and DAVID O. LIVINGSTON.
15

16 108. Plaintiff JEARHAMEL FANARO re-alleges and incorporates the allegations of
17 the preceding paragraphs 1 to 67, to the extent relevant, as if fully set forth in this claim.
18

19 109. Defendants COUNTY OF CONTRA COSTA, CONTRA COSTA COUNTY
20 SHERIFF'S OFFICE, and DAVID O. LIVINGSTON, acting under the color of law
21 And as policy-making authorities, affirmatively placed Plaintiff JEARHAMEL FANARO in a
22 position of danger by maintaining policies, customs, or practices permitting deliberate
23 indifference, or failure to maintain policies customs, or practices, when it was obvious that they
24 were needed to prevent the brutal attack that Plaintiff JEARHAMEL FANARO endured at the
25 hands of other inmates without any interference, and were the moving force behind Defendants
26 OMAR DELEON, ANTONIO ROSAS's violations of Plaintiff JEARHAMEL FANARO's
27 rights under Art. I, §7 of the California Constitution.
28

110. Defendants COUNTY OF CONTRA COSTA and CONTRA COSTA COUNTY SHERIFF'S OFFICE are indirectly and vicariously liable, through the principles of *respondeat superior*, for injuries proximately caused by acts or omissions of their employees acting within the scope of their employment.

111. Defendant DAVID O. LIVINGSTON's actions and inactions constituted oppression and/or malice resulting in great harm to Plaintiff JEARHAMEL FANARO.

112. As a direct and proximate result of Defendants COUNTY OF CONTRA COSTA, CONTRA COSTA COUNTY SHERIFF'S OFFICE, and DAVID O. LIVINGSTON's actions and inactions, Plaintiff JEARHAMEL FANARO suffered injuries entitling him to receive compensatory damages against Defendants COUNTY OF CONTRA COSTA, CONTRA COSTA COUNTY SHERIFF'S OFFICE, DAVID O. LIVINGSTON, OMAR DELEON, ANTONIO ROSAS and DOES 3 to 4, declaratory and injunctive relief against Defendants COUNTY OF CONTRA COSTA, CONTRA COSTA COUNTY SHERIFF'S OFFICE, DAVID O. LIVINGSTON, OMAR DELEON, ANTONIO ROSAS and DOES 3 to 4, and punitive damages against Defendants COUNTY OF CONTRA COSTA, CONTRA COSTA COUNTY SHERIFF'S OFFICE, DAVID O. LIVINGSTON, OMAR DELEON, ANTONIO ROSAS and DOES 3 to 4.

WHEREFORE, Plaintiff JEARHAMEL FANARO prays for relief as hereunder appears.

NINTH CLAIM

Negligence

(CAL. GOV. CODE § 820(a))

113. The Ninth Claim is asserted by Plaintiff JEARHAMEL FANARO, on behalf of himself, against Defendants CONTRA COSTA COUNTY SHERIFF'S OFFICE, DAVID O. LIVINGSTON, OMAR DELEON, ANTONIO ROSAS and DOES 3 to 4.

120. Defendants OMAR DELEON, ANTONIO ROSAS and DOES 3 to 4 made intentional decisions regarding the conditions under which Plaintiff JEARHAMEL FANARO was to be confined and thus put him at substantial risk of harm.

121. Defendants OMAR DELEON, ANTONIO ROSAS and DOES 3 to 4 did not take reasonable available measures to abate that risk which allowed Defendants FRANCISCO RAMIREZ, THOMAS LEON, and FRANCISCO VARGAS and DOES 5 and 6 to significantly harm Plaintiff JEARHAMEL FANARO.

122. As a direct and proximate result of Defendants OMAR DELEON, ANTONIO ROSAS and DOES 3 to 4's actions and inactions, Plaintiff JEARHAMEL FANARO suffered injuries entitling him to receive compensatory and punitive damages against Defendants OMAR DELEON, ANTONIO ROSAS and DOES 3 to 4.

WHEREFORE, Plaintiff JEARHAMEL FANARO prays for relief as hereunder appears.

ELEVENTH CLAIM

Conspiracy

123. The Eleventh Claim is asserted by Plaintiff JEARHAMEL FANARO against Defendants FRANCISCO RAMIREZ, THOMAS LEON, FRANCISCO VARGAS, OMAR DELEON, ANTONIO ROSAS and DOES 3 to 4.

124. Plaintiff JEARHAMEL FANARO re-alleges and incorporates the allegations of the preceding paragraphs 1 to 68, to the extent relevant, as if fully set forth in this claim.

125. Plaintiff JEARHAMEL FANARO was severely injured during an attack by Defendants FRANCISCO RAMIREZ, THOMAS LEON, FRANCISCO VARGAS, and DOES 5 and 6, and Defendants OMAR DELEON, ANTONIO ROSAS and DOES 3 to 4 were aware that Defendants FRANCISCO RAMIREZ, THOMAS LEON, FRANCISCO VARGAS, and DOES 5 and 6 planned to attack Plaintiff JEARHAMEL FANARO.

1 145. Plaintiff JEARHAMEL FANARO did not consent and was harmed as a result of
2 Defendants FRANCISCO RAMIREZ, THOMAS LEON, FRANCISCO VARGAS, and DOES
3 5 and 6's conduct.

4
5 146. Defendants OMAR DELEON, ANTONIO ROSAS and DOES 3 to 4 in their official
6 duties knowingly allowed Defendants FRANCISCO RAMIREZ, THOMAS LEON,
7 FRANCISCO VARGAS, and DOES 5 and 6 to assault Plaintiff JEARHAMEL FANARO.

8 147. As a direct and proximate result of Defendants FRANCISCO RAMIREZ,
9 THOMAS LEON, FRANCISCO VARGAS, OMAR DELEON, ANTONIO ROSAS and DOES
10 3 to 4's actions and inactions, Plaintiff JEARHAMEL FANARO suffered injuries entitling him
11 to receive compensatory and punitive damages against Defendants FRANCISCO RAMIREZ,
12 THOMAS LEON, FRANCISCO VARGAS, OMAR DELEON, ANTONIO ROSAS and DOES
13 3 to 4.

14
15 WHEREFORE, Plaintiff JEARHAMEL FANARO prays for relief as hereunder appears
16

17 **FIFTEENTH CLAIM**

18 **Intentional Infliction of Emotional Distress**

19 148. The Fifteenth Claim is asserted by Plaintiff JEARHAMEL FANARO against
20 Defendants FRANCISCO RAMIREZ, THOMAS LEON, and FRANCISCO VARGAS, OMAR
21 DELEON, ANTONIO ROSAS and DOES 3 to 6.

22 149. Plaintiff JEARHAMEL FANARO re-alleges and incorporates the allegations of
23 the preceding paragraphs 1 to 68, to the extent relevant, as if fully set forth in this claim.

24 150. Defendants FRANCISCO RAMIREZ, THOMAS LEON, and FRANCISCO
25 VARGAS and DOES 5 to 6's attack on Plaintiff JEARHAMEL FANARO was outrageous and
26 intended to cause Plaintiff JEARHAMEL FANARO emotional distress.
27
28

1 amount sufficient to deter and to make an example of them, because of their actions and/or
2 inactions, as alleged were motivated by evil motive or intent, involved reckless or callous
3 indifference to federally protected rights, were wantonly or oppressively done, or constituted
4 oppression and/or malice resulting in great harm.
5

6 3. For an award of punitive damages against Defendants FRANCISCO RAMIREZ,
7 THOMAS LEON, FRANCISCO VARGAS, and DOES 5-6 in an amount sufficient to deter and
8 to make an example of them, because of their actions as alleged constituted oppression and/or
9 malicious conduct.
10

11 4. For an award of statutory penalties, pursuant to Cal. Civ. Code § 52.1 and any
12 other statute as may be applicable.

13 5. For an award of declaratory or injunctive relief, enjoining and restraining
14 Defendants COUNTY OF CONTRA COSTA, CONTRA COSTA COUNTY SHERIFF'S
15 OFFICE, DAVID O. LIVINGSTON, OMAR DELEON, ANTONIO ROSAS and DOES 3 to 4
16 from continuing or repeating the policies, customs, or practices complained to herein;
17

18 6. For an award of reasonable attorney's fees and costs, pursuant to 42 U.S.C. §
19 1988, Cal. Civ. Code § 52.1, Cal. Code Civ. Proc. § 1021.5, and any other statute as may be
20 applicable; and
21

22 7. For an award of any other further relief, as the Court deems fair, just, and
23 equitable.

24 Dated October 8, 2019

Respectfully Submitted,

25
26 

27 Qiana Washington
28 Attorney for Plaintiff
JEARHAMEL FANARO

JURY TRIAL DEMAND

A JURY TRIAL IS DEMANDED by Plaintiff JEARHAMEL FANARO, on behalf of himself.

Dated October 8, 2019

Respectfully Submitted,



Qiana Washington
Attorney for Plaintiff
JEARHAMEL FANARO